

REMARKS

Claims 1 and 4-8 are pending in this application. By this Amendment, claims 1 and 4 are amended to provide antecedent basis and to correct minor informalities. Thus, no new matter is added by the amendment. In view of at least the following remarks, reconsideration and allowance are respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendments to claims 1 and 4 correct informalities and antecedent basis; and (c) satisfy a requirement of form asserted in the previous Office Action. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

I. Objection to Claims 1 & 4-8

Claims 1 and 4-8 are objected to because of an informality. This objection is respectfully traversed.

Applicants amend claim 1 to recite "each grasped end," as suggested by the Examiner. Thus, claim 1 and claims 4-8 depending therefrom satisfy all formal requirements. Accordingly, Applicants respectfully request withdrawal of the objection.

II. Rejection of Claims 1 & 4-8 under 35 U.S.C. §112, second paragraph

Claims 1 and 4-8 are rejected under 35 U.S.C. §112, second paragraph. This rejection is respectfully traversed.

Independent claim 1 is rejected because the Office Action asserts that there is insufficient antecedent basis for the recitation "the two profile sheet piles" on line 5-6. Applicants submit that the amendment to claim 1, to recite "two Z profile sheet piles" overcomes the rejection. Thus, claim 1 and claims 4-8 depending therefrom satisfy the

requirements of 35 U.S.C. §112, second paragraph. Accordingly, Applicants respectfully request withdrawal of the rejection.

III. Rejection of Claims 1 & 4-8 under 35 U.S.C. §103(a)

Claims 1 and 4-8 are rejected under 35 U.S.C. §103(a) over Muller (U.S. Patent No. 3,100,382) or Taylor (U.S. Patent No. 3,279,195). This rejection is respectfully traversed.

Applicants submit that the Office Action has failed to make a *prima facie* case of obviousness. Specifically, the Office Action fails to identify any acceptable suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify the reference (i.e., why a skilled artisan would have been motivated to modify the device of Muller or Taylor), as required by MPEP §§ 2142, 2143.

The Office Action alleges that Muller and Tuller, individually, disclose all of the features recited in independent claim 1 except for "the grasping mechanism grasps each end portion of the two Z profile sheet piles, each grasped end portion being on an opposite side of the clutches at which the two Z profile sheet pile are joined each other" (emphasis added). The Office Action acknowledges that Muller and Taylor, individually, only disclose grasping a middle section of each pile. However, the Office Action alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to grasp each pile of Muller and Taylor at its end because to do so is only a matter of design choice and Applicants' specification has not articulated that this feature solves a particular problem of the prior art. This assertion is respectfully traversed.

In re Kuhle makes clear that if the difference between the prior art and the invention solve a stated problem, the differences cannot be considered a mere design choice. In the present application, the claimed feature of a grasping mechanism that grasps each end portion, the grasped end portion being on an opposite side of the clutches at which the two Z profile sheet pile are joined each to other, as recited in claim 1, solves the stated problem of

controlling the sheet piles and press-in accuracy of the sheet piles. For example, page 3, line 5 through page 4, line 10 of Applicants' specification discusses the problem of instability in pressing a single sheet pile into the ground when grasping the sheet pile in the center. See, for example, Fig. 5 of Applicants' drawings. Furthermore, page 19, line 20 through page 20, line 3 of Applicants' specification, provides that grasping each flange portion 71a of each Z profile sheet pile results in greater control of the Z profile sheet piles and greater press-in accuracy.

Accordingly, because the recitation "the grasping mechanism grasps each end portion of the two Z profile sheet piles, each grasped end portion being on an opposite side of the clutches at which the two Z profile sheet pile are joined each other," solves a stated problem, the differences between Muller or Taylor and the claimed invention cannot be considered a mere design choice. Therefore, the Office Action has fails to make a *prima facie* case of obviousness because the Office Action fails to identify any acceptable suggestion or motivation for modifying Muller or Taylor. Withdrawal of the rejection of claim 1 is respectfully requested.

Claim 4-8 depend from claim 1. Thus, withdrawal of the rejection of claims 4-8 is also respectfully requested for at least their dependence on claim 1, as well as the additional features they recite. Thus, for at least the reasons discussed above, withdrawal of the rejection of these claims is also respectfully requested.

Furthermore, regarding the rejection of dependent claim 4, Applicants submit that Muller fail to disclose "a plurality of clamp parts for supporting the press-in section." For example, Muller discloses two supports 4a and 4b. However, the two supports 4a and 4b do not support the press-in section. See Muller, for example, Figs. 1 and 2.

Similarly, Taylor fails to disclose "a plurality of clamp parts for supporting the press-in section." For example, claims 1 and 4 are directed to "a plurality of clamps parts" and "a

press-in section." The "plurality of clamp parts" is separate and distinct from the "press-in section." Importantly, the "plurality of clamp parts" support the "press-in section."

In contrast, Taylor only discloses a double-acting hydraulic jack 11. Even if it is assumed that the double-acting hydraulic jack 11 corresponds to the "press-in section," Taylor fails to disclose "a plurality of clamp parts" that support the double-acting hydraulic jack 11, and that are separate and distinct from the double-acting hydraulic jack 11. See Taylor, for example, Figs. 1 and 3.

Accordingly, for at least these reasons, Muller and Tuller, individually, fail to disclose "a plurality of clamp parts for supporting the press-in section," as recited in claim 4. Thus, withdrawal of the rejection of claim 4 is respectfully requested.

IV. Conclusion

In view of at least the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Timothy S. Smith
Registration No. 58,355

WPB:TSS/tbm

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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